

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANDREW R. KNEISEL

Appeal No. 94-3599
Application 07/931,737¹

ON BRIEF

Before KIMLIN, WEIFFENBACH and OWENS, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-20, all the claims in the present application. Claim 1 is illustrative:

1. A process for bonding a vehicle window to a vehicle flange comprising the sequential steps of:

¹ Application for patent filed August 18, 1992.

Appeal No. 94-3599
Application 07/931,737

a) applying a liquid masking composition to a vehicle flange;

b) painting the vehicle, and drying or curing the liquid masking composition sufficiently to form a removable mask;

c) removing the mask from the flange; and

d) adhesively bonding the vehicle window to the vehicle flange.

In addition to the admitted state of the prior art found in appellant's specification, the examiner relies upon the following references as evidence of obviousness:

Hong et al. (Hong)	4,125,088	Nov. 14, 1978
Kano et al. (Kano)	4,871,585	Oct. 3, 1989

Appellant's claimed invention is directed to bonding a window to a vehicle flange. The process entails applying a liquid masking composition to the flange, painting the vehicle and drying or curing the masking composition, removing the mask, and adhesively bonding the window to the flange. According to appellant, utilizing a liquid masking composition prior to painting the vehicle is an improvement over the prior art method of applying a solid pressure sensitive adhesive tape to the vehicle flange. Appellant maintains that the claimed invention obviates the disadvantages of the prior art method, which is labor intensive, not effectively automatable, and leaves a residue which may impair the adhesive strength between the window and the flange.

Appeal No. 94-3599
Application 07/931,737

Appealed claims 1-6, 8-15 and 17-20 stand rejected under 35 U.S.C. § 103 as being unpatentable over the admitted prior art in view of Hong. Claims 7 and 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over the admitted prior art and Hong, further in view of Kano.

Upon careful consideration of the opposing arguments presented on appeal, we concur with appellant that the examiner has not made out a prima facie case of obviousness for the claimed subject matter. Accordingly, we will not sustain the examiner's rejections.

We agree with appellant that Hong is non-analogous art and, therefore, not properly combinable with the admitted prior art. Hong is directed to an apparatus for sealing, or masking, the inner surface of the flared portion of a cathode ray tube in order to protect the surface from the spray-coating of carbon material on the neck portion of the cathode ray tube. Manifestly, Hong is not pertinent to the field of endeavor of the admitted prior art and appellant, viz., bonding a window to a vehicle flange. We also agree with appellant that Hong is not reasonably pertinent to the particular problem solved by appellant, i.e., Hong is not concerned with the problems associated with masking the surface of a vehicle before painting,

which involves curing the paint at relatively high temperatures after application.

Furthermore, even assuming, arguendo, that Hong is analogous art, we concur with appellant that Hong provides no teaching or suggestion that the masking material is either liquid or curable. The portion of Hong relied upon by the examiner is the discussion of the prior art at column 1, lines 46-53. Hong discloses that it was known in the art of sealing the edge of a cathode ray tube to employ "a manually applied masking tape or a specially formed repellent coating." (Emphasis added.) According to the examiner, this disclosure establishes the equivalency of masking tape and a liquid repellent coating. However, as maintained by appellant, Hong does not teach that the repellent coating is a liquid. We do not subscribe to the examiner's reasoning that "the coating must be a liquid in order to remain adhered to the sealing edge" 26 of the cathode ray tube, as depicted in reference Figure 3B. Hong discloses no nexus between the inventive arrangement of Figure 3B and the discussion of the prior art at column 1, lines 46 et seq. The prior art technique referred to by Hong may just as likely apply a powdered coating to a cathode ray tube that is in an inverted position relative to the orientation of Figure 3B. It is well settled that a legal conclusion of obviousness must be supported by facts not

Appeal No. 94-3599
Application 07/931,737

speculation. In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967). Furthermore, the term "coating," in its broadest sense, can refer to a solid material, such as the silicone masking strip of Hong's invention.

The examiner's reliance on Kano for teaching electroless plating of a protective coating of a metal workpiece does not remedy the deficiencies of the combined teachings of the admitted prior art and Hong.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is reversed.

REVERSED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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CAMERON WEIFFENBACH)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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